

**MISSISSIPPI DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY AND CHILDREN'S SERVICES**

Cover Memorandum accompanying the February 6, 2007 filing Adoption Rule-Final Notice by the Division of Family and Children's Services issuing new Foster Care Review and County Conference policy for its policy manual.

Listed below are the four new or amended rules to the agency's policy manual that accounts for the substantive differences between the final rule on County Conference drafted February 2006 and the present final rule titled County Conference and Foster Care Review.

1. Proposed Rule:

Delete bullets designating requirements of periodic administrative reviews.
Instead define Federal and State statutes.

I. LEGAL AUTHORITY

A. Federal

The enactment of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) amended the Social Security Act to require that the Agency conduct a case review at least every six months for each foster child in Agency custody. The law mandates that the child, his parents, and their representatives be allowed to participate in the review and that procedural safeguards to protect their rights be maintained. Section 475(5)(A) of 42 U.S.C. 675 expanded the determinations which must be made by the reviews:

(5) The term "case review system" means a procedure for assuring that—

(A) each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which—

(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and
(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and

submit a report on such visit to the State agency of the State in which the home of the parents of the child is located.

B. State

Pursuant to Section 43-15-13 of the Mississippi Code of 1972, Annotated, the Agency is required to administer a system of individualized plans and biannual reviews for children in its custody and in the custody of licensed public and private agencies.

C. Provisions

The intent of both laws is to promote permanency planning for children by returning the children to their own home, placing them with relatives, or freeing them for adoptive placement. Federal and State law includes mandates which specify that the foster care review process will address certain areas which include but are not limited to: safety, appropriateness and restrictiveness of placement; extent of compliance by the agency and the parents in regards to case planning; progress made toward the identified plan and toward alleviating or mitigating the causes that resulted in custody; the extent of care, support and communication by the parents or guardian; the methods of achieving the goal including services offered or utilized to facilitate the plan for establishing a permanent home for the child; and relevant testimony pertaining to the case.

Current Rule:

The DFCS periodic administrative review, which is known as a County Conference, shall be held on every child in agency custody every six (6) months. The review will be facilitated by a Foster Care Reviewer assigned to the case. The purpose of the County Conference is to make the required Periodic Administration Determinations on the case, based on the following:

- Is the current placement safe? The safety of the child/ren shall be of paramount concern.
- Is the current placement the most appropriate and least restrictive for the child's individual needs? The child/ren should be placed in the least restrictive, most family-like placement appropriate to his/her needs and in close proximity to the parent's home where such is in the child's best interest.
- Has the Agency complied with the service provisions of the child/ren's Individual Service Plan (ISP)? An Individual Service Plan on each child is required that addresses the placement and services both provided and needed.

- Is the agency's permanent plan appropriate and is there a documented likely date of achievement? The achievement of genuine permanency for each child within two years is the goal with reunification, relative placement {either through durable legal guardianship or adoption} and adoption as the option.
- Has the Agency complied with the service provisions of the parental ISP/s? For the plan of reunification, the Agency will work with the family through parental Individual Service Plans.
- Has there been parental progress toward alleviating or mitigating causes necessitating the child/ren's placement in agency custody? For the courts to maintain the permanent plan of reunification with parents, the parents must be making substantial progress.
- Is there continuing need for the Agency to maintain custody of the child/ren or is one of the permanent plans now achieved sufficient for transferred custody?

2. Proposed Rule:

Add time frames for invitations.

B. Time Frames for Invitations

Ten-day prior written notice is required to be sent to all parties. For example, if the review meeting is to be held on September 15, the written letter must be mailed on or before September 5. Copies of review invitations should be placed in the paper file.

Current Rule:

No time frames are listed.

3. Proposed Rule:

Add definition for diligent efforts.

C. Diligent Efforts

Parents must be invited to participate in County Conferences but if the parents' whereabouts are unknown, diligent efforts to locate them, at least every six months, must be documented. These efforts include but are not limited to:

1. Contacting relatives.

2. Writing to the last known address, or sending a letter addressed to the parent c/o a relative at the relative's address.
3. Checking with the Division of Economic Assistance
4. Contacting all local utility companies.
5. Contacting all local law enforcement offices.
6. Searching the telephone and city directories.

Current Rule:

There is no definition of diligent efforts.

4. Proposed Rule:

Add a section on how to file a report with the court.

III. FILING THE REVIEW REPORT WITH COURT

In reference to the foster care review once every six (6) months, the state also mandates that each child's case plan shall be filed with the court which awarded custody, and shall be made available to natural parents or foster parents upon approval of the court. State law (43-15-13) requires the court to make a finding every 6 months from the Foster Care Review Plan as to the degree of compliance by the Agency and the parents with the service plan for the child. The Foster Care Reviewer has **ten** days to submit determinations and comments in the Youth Court Hearing and Review Summary report Part B to the County of Responsibility. The County of Responsibility worker then has **ten** days to complete the Youth Court Summary Report Part C and submit to the ASWS for approval. The Area Social Work Supervisor or his designee must approve the report within **ten** days and submit to the court the following items:

1. The original Youth Court Hearing and Review Summary report (part A, B, and C) , plus one copy,
2. The Child's Individualized Service Plan
3. The Adult (parental) Individualized Service Plan (if applicable)
4. A cover letter, asking the clerk of the court to file the original report, stamp the copy "Filed", and return the copy, along with a copy of the filed Six Month Review Order, or any other order which the judge issues as a result of making the finding which is mandated in Section 43-15-13 (4) of the Mississippi Code.

Current Rule:

There is no section on filing report with the court.

FOSTER CARE REVIEW and COUNTY CONFERENCE

I. LEGAL AUTHORITY

A. Federal

The enactment of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) amended the Social Security Act to require that the Agency conduct a case review at least every six months for each foster child in Agency custody. The law mandates that the child, his parents, and their representatives be allowed to participate in the review and that procedural safeguards to protect their rights be maintained. Section 475(5)(A) of 42 U.S.C. 675 expanded the determinations which must be made by the reviews:

(5) The term “case review system” means a procedure for assuring that—

(A) each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which—

(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and
(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located.

B. State

Pursuant to Section 43-15-13 of the Mississippi Code of 1972, Annotated, the Agency is required to administer a system of individualized plans and biannual reviews for children in its custody and in the custody of licensed public and private agencies.

C. Provisions

The intent of both laws is to promote permanency planning for children by returning the children to their own home, placing them with relatives, or freeing them for adoptive placement. Federal and State law includes mandates which specify that the foster care review process will address certain areas which include but are not limited to: safety, appropriateness and restrictiveness of placement; extent of compliance by the agency and the parents in regards to case planning; progress made toward the identified plan and toward alleviating or mitigating the causes that resulted in custody; the extent of care, support and communication by the parents or guardian; the methods of achieving the goal including services offered or utilized to facilitate the plan for establishing a permanent home for the child; and relevant testimony pertaining to the case.

II.AGENCY COMPLIANCE

Adult and Child Individual Service Plans are implemented through the Department to meet the requirements of the law. These ISP's provide information to the court that addresses the above mentioned mandates. To further carry out the requirements of the laws, each child in the custody of the Mississippi Department of Human Services must have a review at least every six months. Every child in the Department's custody is included in this review process, including children in adoptive placement prior to legal finalization of that process. The Department has designated such case reviews as Foster Care Reviews. A Foster Care Review must be held within the first six months after a child's initial placement in custody, and within each six month period thereafter. The Foster Care Reviews will be conducted by a Foster Care Reviewer who schedules a county conference and notifies the county of responsibility of the scheduled dates and times of the conferences. A Youth Court Hearing and Review Summary report is generated as a result of the conference which includes determinations made by the Reviewer as a result of reviewing the case record, comments made during the conference and assessments and recommendations made by the county of responsibility.

A. Invitations

The County of Responsibility must invite the following persons to the County Conference:

1. Parents (the child's parents(s) may bring a representative to the county conference with them)
2. Child, (regardless of age)
3. Grandparents

4. Foster parents, or the individual (relative or otherwise) with whom the child is placed
5. Child's guardian ad litem
6. Child's attorney
7. County of service, adoption unit, or agency of service as appropriate, if child is placed outside county of responsibility

B. Time Frames for Invitations

Ten-day prior written notice is required to be sent to all parties. For example, if the review meeting is to be held on September 15, the written letter must be mailed on or before September 5. Copies of review invitations should be placed in the paper file.

C. Diligent Efforts

Parents must be invited to participate in County Conferences but if the parents' whereabouts are unknown, diligent efforts to locate them, at least every six months, must be documented. These efforts include but are not limited to:

7. Contacting relatives.
8. Writing to the last known address, or sending a letter addressed to the parent c/o a relative at the relative's address.
9. Checking with the Division of Economic Assistance
10. Contacting all local utility companies.
11. Contacting all local law enforcement offices.
12. Searching the telephone and city directories.

III. FILING THE REVIEW REPORT WITH COURT

In reference to the foster care review once every six (6) months, the state also mandates that each child's case plan shall be filed with the court which awarded custody, and shall be made available to natural parents or foster parents upon approval of the court. State law (43-15-13) requires the court to make a finding every 6 months from the Foster Care Review Plan as to the degree of compliance by the Agency and the parents with the service plan for the child. The Foster Care Reviewer has **ten** days to submit determinations and comments in the Youth Court Hearing and Review Summary report Part B to the County of Responsibility. The County of Responsibility worker then has **ten** days to complete the Youth Court Summary Report Part C and submit to the ASWS for approval. The Area Social

Work Supervisor or his designee must approve the report within **ten** days and submit to the court the following items:

5. The original Youth Court Hearing and Review Summary report (part A, B, and C) , plus one copy,
6. The Child's Individualized Service Plan
7. The Adult (parental) Individualized Service Plan (if applicable)
8. A cover letter, asking the clerk of the court to file the original report, stamp the copy "Filed", and return the copy, along with a copy of the filed Six Month Review Order, or any other order which the judge issues as a result of making the finding which is mandated in Section 43-15-13 (4) of the Mississippi Code.